

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PETER E. HENDRICKSON,)
)
Plaintiff,) 8:06cv345
)
vs.) MEMORANDUM AND ORDER
)
UNITED STATES,)
)
Defendant.)

This matter is before the court on filing no. 1, the Petition to Quash Summons filed by the plaintiff, Peter E. Hendrickson. The plaintiff moves to quash a third-party summons issued by the Internal Revenue Service ("IRS") to the First National Bank of Omaha, a Nebraska corporation, as part of an IRS determination of the plaintiff's liability for federal taxes. See generally United States v. Norwood, 420 F.3d 888, 892 (8th Cir. 2005): "Section 7602 of Title 26 authorizes the IRS to summon certain persons and data '[f]or the purpose of ... determining the liability of any person for any internal revenue tax.'"

The record of this case does suggest that the plaintiff has not served the defendant with process. See Fed. R. Civ. P. 4(i) regarding "[s]erving the United States, Its Agencies, Corporations, Officers, or Employees," which states:

(1) Service upon the United States shall be effected

(A) **by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought** or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney

and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the **Attorney General of the United States** at Washington, District of Columbia,

and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons

and of the complaint by registered or certified mail to **the officer or agency**.

(Emphasis added.)

The plaintiff must comply with Fed. R. Civ. P. 4(i) before jurisdiction can be obtained over the United States as a defendant. Absent jurisdiction over the defendant, the court cannot consider whether any relief would be appropriate in this matter. Accordingly, the plaintiff shall obtain three summons forms from the Clerk of Court, complete the forms, submit them to the Clerk of Court for signature, and then arrange to have the signed and completed summons forms served in accordance with Fed. R. Civ. P. 4.

SO ORDERED.

DATED this 18th day of May, 2006.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge